

REMARKS

Applicant has carefully reviewed and considered the Office Action mailed on May 1, 2003, and the documents cited therein. Claims 2-31 and 33-36 are pending in this application.

§102 Rejection of the Claims

Claims 2-8, 11, 12, 14-29 and 31-35 were rejected under 35 USC § 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Jackson et al. (US 4,741,944). The Examiner asserts that because Jackson discloses the elastic sheet attached to a non-woven web and a liquid distributed in the composite material, the material of Jackson inherently meets the limitations of the claims. This rejection is respectfully traversed.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. MPEP §2131.

Claims 2-8, 11, 12, 14-29 and 31-36 recite a wet-wipe that includes a non-woven elastic layer and a gatherable layer. In addition, the composite elastic material of the claims has a cup crush and cup crush to density ratio within specified ranges. Jackson does not disclose a composite elastic material with outer a non-elastic non-woven layer that meets the limitations required by the instant claims

As further evidence that the composite elastic material of the claims would not be anticipated by the disclosure of Jackson, the Examiner is requested to consider the Declaration under 37 C.F.R. §1.132, by Applicant, Scott R. Lange. The declaration reports that a representative composite elastic material prepared according to the Jackson disclosure was tested. According to the test results the Jackson material prepared had a density of 0.035 g/cm^3 and a basis weight of 72 g/M^2 . In addition, the Jackson material had a cup crush of 186.5 g per cm . Therefore, the cup crush to density ratio of the Jackson material was 5328.6 cm^2 , which does not meet the limitations of the instant claims. Thus, the Jackson disclosure does not anticipate the pending claims. Further, it is submitted that the claimed wet wipes using the composite elastic material of the instant invention would not be obvious in view of the Jackson disclosure.

Accordingly, it is respectfully requested that the rejection of the claims under 35 USC §102(b) or §103(b) over Jackson be withdrawn.

§103 Rejection of the Claims

Claims 9-11 were rejected under 35 USC § 103(a) as being unpatentable over Jackson *et al.* in view Sabee (US 5,200,246). The Examiner alleges that one of ordinary skill in the art would be motivated to combine the disclosures of Jackson's multilayer material with Sabee's parallel elastic fibers to improve the web's elasticity. This rejection is respectfully traversed.

The Examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves, or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claim limitations. M.P.E.P. §2142.

Applicants respectfully submit that the wet wipes prepared from the composite elastic materials recited in claims 9-11 are not *prima facie* obvious over the compositions of Jackson, combined with Sabee. Jackson does not disclose an elastic web wherein the elastic fibers are substantially parallel. Sabee discloses stabilized continuous filaments intermingled with melt-blown fibers in-between and around the continuous filaments. It is respectfully submitted, that there is no suggestion in either Jackson or Sabee to combine them as suggested by the Examiner. Nor, would one skilled in the art would have had any motivation to combine the cited disclosures as suggested by the Examiner.

Further, as discussed above and supported by the attached Declaration, the material of Jackson does not meet the limits of the claims. There is no suggestion or motivation in the cited documents that would lead one skilled in the art to the conclusion that the modification of Jackson with Sabee would provide a composite elastic material having the low cup crush and density of the wet wipes as presently claimed. Sabee discloses the use of intermingling of melt blown fibers to form elastic webs. There is no teaching or suggestion in the combined disclosures of Jackson and Sabee that would provide a person skilled in the art with a reasonable expectation that the composite material of Jackson would be altered such that it would meet the

limitations or the present claims. Accordingly, withdrawal of this rejection is respectfully requested.

Claim 13 was rejected under 35 USC §103(a) as being unpatentable over Jackson *et al.* in view of Georger *et al.* (U.S. 5,508,102). The Examiner alleges that one of ordinary skill in the art, at the time the invention was made, would be motivated to combine the disclosures of Jackson and Georger to replace the non-elastic webs of Jackson *et al.* with the matrix of polyethylene meltblown fibers and fibrous pulp fibers to improve the abrasion resistance of the resulting elastic composite. This rejection is respectfully traversed.

The requirements for a *prima facie* case of obviousness are stated above. Georger discloses process conditions to produce a fibrous non-woven web with a polymer rich surface that improves abrasion resistance. The disclosure requires that the concentration of meltblown fibers adjacent to each exterior surface of the non-woven layer is about 70-90%, by weight and the concentration of the meltblown fibers in the interior portion is less than about 35%, by weight.

Applicants respectfully submit that there is no suggestion to combine the disclosure of Jackson with the disclosure of Georger to obtain the claimed invention. As stated herein, and supported by Applicant's Declaration, the material disclosed in Jackson would not meet the limits of the instant claims. In the specification, applicants state that the composite elastic material claimed has a low cup-crush, which results in a material having a soft feel. (See specification at page 6, lines 19-21.) A person skilled in the art would not have been motivated to modify the composite elastic material disclosed in Georger, having high abrasion resistance, with the disclosure of Jackson to obtain the wet wipes having a low cup-crush or the cup-crush to density ratio of the instant claims.

Further, there must be a reasonable expectation of success that the combination of the cited disclosures, a high abrasion resistant non-woven web, of Georger, with the polymeric web of Jackson would provide the composite elastic material and/or the wet wipes claimed. A person having ordinary skill in the art would not have a reasonable expectation that a composite elastic material prepared according to the disclosures of Georger and Jackson would provide a product that could meet the limitations of the pending claims. It is respectfully submitted that the wet-

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wipes claimed using a composite elastic material are not obvious over the combined disclosures of Jackson and Georger. Accordingly, withdrawal of this rejection is respectfully requested.

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CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney 612-373-6968 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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By their Representatives,

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Date

July 31, 2003

By

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop RCE, Commissioner of Patents, P.O.Box 1450, Alexandria, VA 22313-1450, on this 31 day of July, 2003

Name

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Signature

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